

1 BILL NO. G-84-05-

<sup>07</sup>15

2 GENERAL ORDINANCE NO. G-

16-84

3 AN ORDINANCE amending the Municipal  
4 Code of the City of Fort Wayne, In-  
5 diana, by establishing participation  
6 goals for Minority and Women-Owned  
7 Businesses in City procurement and  
8 construction contracts and by cre-  
9 ating a Minority Business Enterprise  
10 Council to monitor the extent of  
11 participation by Minority and Women-  
12 Owned Businesses in said contracts.

13 WHEREAS, it is the stated public policy of the City  
14 of Fort Wayne to provide equal opportunities to all of its citi-  
15 zens with respect to City contracts involving procurement of  
16 goods and construction projects; and

17 WHEREAS, it is the policy of this City administration  
18 that minority and women-owned businesses should participate to the  
19 greatest extent possible in City contracts; and

20 WHEREAS, the City of Fort Wayne desires to work within  
21 Ind. Code §36-1-9 et seq., which is the state purchasing law  
22 governing cities, as well as to work within Ind. Code §36-1-12  
23 et seq., which is the law governing the awarding of public works  
24 contracts; and

25 WHEREAS, it is desirable to adopt this ordinance to  
26 facilitate the use of minority and women-owned businesses in city  
27 procurement and construction contracts and to create jobs and job  
28 opportunities for citizens of this community.

29 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL  
30 OF THE CITY OF FORT WAYNE, INDIANA:

31 SECTION 1. That Chapter 7 of the Municipal Code of the  
32 City of Fort Wayne, Indiana of 1974 is hereby amended by adding  
thereto the following sections.

SECTION 2. Title and General Purpose. This ordinance  
shall be cited as the "Minority Business Enterprise and Women  
Business Enterprise Ordinance of 1984." This ordinance articu-



1 Page Two

2  
3 lates and makes into law the commitment of this City to a strong  
4 and healthy free enterprise system that will encourage fair and  
5 equitable opportunities for minority and women-owned businesses to  
6 participate in City procurement and construction contracts. In  
7 that regard, the essential purposes of this ordinance are:

- 8 A. The identification and implementation of specific  
9 goals of this City with respect to fair and equi-  
10 table opportunities for participation by minority  
11 and women-owned businesses in City procurement and  
12 construction contracts.
- 13 B. The creation of a Minority Business Enterprise  
14 Council formed to develop recommendations<sup>o</sup> for pro-  
15 grams and regulations concerning the continued im-  
16 plementation of City goals as herein stated; to  
17 monitor the City's progress in meeting these goals;  
18 and for other purposes as hereinafter establish-  
19 ed.

20 SECTION 3. Definitions. For purposes of this ordi-  
21 nance, the following terms shall have the meanings as herein-  
22 after described:

- 23 (a) "Minority". The term "minority" in reference to  
24 national origin means Black, Hispanic, American  
25 Indian, Asian, Pacific Islander and Alaskan Native.  
26 To qualify as a minority hereunder, an individual  
27 must have been born a minority.
- 28 (b) "Minority Business Enterprise (MBE)" means a busi-  
29 ness of which at least fifty-one percent (51%) is  
30 owned and controlled by minority group members.  
31 The minority ownership must exercise actual day-  
32 to-day management as well as actively participate



in management policy decisions affecting the business. The contribution of capital, equipment or expertise that has been made by the minority owners must be real, substantiated and documented. Furthermore, minority risks and profits must be commensurate with the minority ownership interest. The business must be an independent, continuing enterprise recognized as a separate entity for tax and corporate purposes.

(c) "Women Business Enterprise (WBE)" means a business of which at least fifty-one percent (51%) is owned and controlled by women group members. The women ownership must exercise actual day-to-day management as well as actively participate in management policy decisions affecting the business. The contribution of capital, equipment or expertise that has been made by the women owners must be real, substantiated and documented. Furthermore, women risks and profits must be commensurate with the women ownership interests. The business must be an independent, continuing enterprise recognized as a separate entity for tax and corporate purposes.

(d) "Joint Venture". Joint venture means a combination of contractors or firms performing a specific contract in which minority and/or women-owned businesses participate in the net profits or net losses.

#### SECTION 4. Participation Goals.

(a) With respect to a single fiscal year, the following goals are established:



(1) That the total yearly dollar amount of procurement contracts awarded to minority business enterprises is at least fifteen percent (15%) of the total dollar amount of all such contracts.

(2) That the total yearly dollar amount of procurement contracts awarded to women business enterprises is at least twelve percent (12%) of the total dollar amount of all such contracts.

(3) That the total yearly dollar amount of construction contracts awarded to minority business enterprises is at least seven percent (7%) of the total dollar amount of all such contracts.

(4) That the total yearly dollar amount of construction contracts awarded to women business enterprises is at least two percent (2%) of the total dollar amount of all such contracts.

(b) To meet the participation goals of this ordinance, a minority business enterprise or women business enterprise may be either a prime or sub-contractor or may be part of a joint venture. To qualify as a prime contractor the minority and/or women-owned business must be substantially involved in all phases of the contract including bidding, planning, staffing and daily management.

(c) The established policy and aim of this City is to comply with the participation goals established



in this ordinance; but, because of the requirements of Ind. Code §36-1-9 et seq. and §36-1-12 et seq., said goals are not necessarily binding in every case in the awarding of City procurement and construction contracts.

- (d) The participation goals established by this ordinance do not apply to any contracts for which there is only one possible supplier.

SECTION 5. Minority Business Enterprise Council.

- (a) To assist in implementing, monitoring and complying with the participation goals of this ordinance, there is hereby created a Minority Business Enterprise Council (MBEC). The MBEC shall consist of nine (9) members, six (6) appointed by the Mayor and three (3) appointed by Common Council. All members shall be residents of or do business within the City of Fort Wayne. The members must be persons who have demonstrated a commitment to the purposes for which the MBEC is created; and the members may be selected from the following categories: Common Council, minority business enterprises, women business enterprises, majority contractors and community-based organizations with an interest in minority business enterprises and/or women business enterprises.

- (b) It shall be the duty of the Mayor and Common Council to solicit suggestions for MBEC appointments from organizations having an interest in minority business enterprises and/or women business enterprises, and to give thoughtful consideration to the appointment of persons so suggested.



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3 (c) Members of the MBEC shall serve two (2) year terms  
4 except as otherwise provided herein. The Mayor may  
5 remove any member appointed by him or her and  
6 Common Council may remove any member appointed by  
7 it for misconduct, incapacity or neglect of duty in  
8 accordance with a procedure which the Mayor or Com-  
9 mon Council shall establish with respect to their  
10 respective appointments. The procedure shall in-  
11 clude notification and opportunity for hearing.

12 Any person appointed to fill a vacancy on the MBEC  
13 shall be appointed in the same manner, and according  
14 to the same criteria, as the member he/she is ap-  
15 pointed to replace.

16 Members of the MBEC shall receive no compensation  
17 for time spent in attendance at meetings or in con-  
18 ducting other official business of the MBEC. Any  
19 MBEC member who has direct financial or personal  
20 interest in any measure pending before the MBEC  
21 shall disclose this fact to the MBEC and shall  
22 not vote upon any such matter or matters.

23 All MBEC members shall be appointed by the Mayor  
24 and Common Council within thirty (30) days from pas-  
25 sage and approval of this ordinance. Of these ini-  
26 tial appointments, three (3) members appointed by  
27 the Mayor and one (1) member appointed by Common  
28 Council shall serve until December 31, 1984, and all  
29 other persons appointed shall serve until December 31,  
30 1985. After these initial appointments, members  
31 shall be appointed for two (2) year terms, to begin  
32 on January 1 of each year. At the initial meeting



of the MBEC and in January of each year thereafter, the members of the MBEC shall elect a chairperson, vice-chairperson and secretary, each such officer to serve for a one (1) year term.

The MBEC shall meet at least once a month for the purpose of transacting such business as may properly come before it. Special meetings may be conducted at such time as the majority of the MBEC provides or as called by the Mayor. Five (5) members at a meeting shall constitute a quorum, and the action of the MBEC shall be based upon a majority vote of the members attending. A record of the proceedings of the MBEC shall be kept and files shall be maintained. The books and register of the MBEC shall be prima facie evidence of all matters recorded therein.

(d) The duties of the MBEC include, but are not limited to, the following:

- (1) Maintaining an updated list of all minority business enterprises and women business enterprises for referral to appropriate City officials.
- (2) Surveying minority business enterprises and women business enterprises to establish past and current participation levels.
- (3) Establishing a procedure by which the appropriate City officials report quarterly on progress in attaining the participation goals of this ordinance.



- (4) Recommending policies, regulations and procedures to encourage participation of minority and women-owned businesses in City contracts.
- (5) Recommending a certification process for all minority business enterprises and women business enterprises applying for City contracts.
- (6) Recommending procedures for monitoring progress in attaining participation goals.
- (7) Recommending procedures for the waiver of these participation goals in appropriate circumstances.
- (8) Recommending a grievance procedure for the processing of complaints by any business aggrieved by its treatment in seeking to participate in City contracts or by determinations made as a result of this ordinance.
- (9) Submitting a written, report yearly to the Mayor and Common Council indicating the progress made toward achieving the participation goals of this ordinance. Said report shall include, but not be limited to, a summary of City contracts let during the relevant period and the extent of participation in those contracts by minority and women-owned businesses. The report also may include recommendations as to appropriate future goals. Said report shall be available for public review.

The MBEC shall have access to all public records and files of the City in order to monitor and investigate compliance with participation goals.



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3 SECTION 6. Severability. If any provision of this

4 ordinance or any section, sentence, clause, phrase, work or appli-

5 cation thereof, in any circumstances is held invalid, the vali-

6 dity of the remainder of the ordinance and of the application of

7 any other provision, section, sentence, clause, phrase or word

8 shall not be affected. In the event that this ordinance is found

9 to be in substantial conflict with any applicable state law, then

10 in that event only, this ordinance or the conflicting sections

11 thereof shall be held invalid, and the state law shall govern.

12 SECTION 7. Effective Date. This Ordinance shall be in

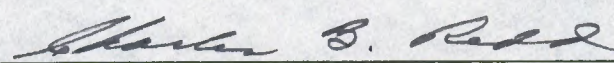
13 effect upon passage and approval by the Mayor. This Ordinance

14 shall be re-evaluated by Common Council five (5) years after its

15 approval by the Mayor, at which time the ordinance shall lapse

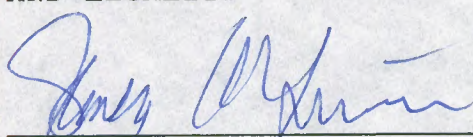
16 unless reinstated by Common Council.

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18   
Councilmember

19 APPROVED AS TO FORM

20 AND LEGALITY

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23 Stanley A. Levine  
Attorney for Common Council

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Read the first time in full and on motion by Redd, seconded by Stier, and duly adopted, read the second time by title and referred to the Committee of the Whole (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., E.S.

DATE: 7-10-84

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Redd, seconded by Stier, and duly adopted, placed on its passage. PASSED (LOST) by the following vote:

|                    | <u>AYES</u> | <u>NAYS</u> | <u>ABSTAINED</u> | <u>ABSENT</u> | <u>TO-WIT:</u> |
|--------------------|-------------|-------------|------------------|---------------|----------------|
| <u>TOTAL VOTES</u> | <u>7</u>    | <u>2</u>    | _____            | _____         | _____          |
| <u>BRADBURY</u>    | <u>✓</u>    | _____       | _____            | _____         | _____          |
| <u>BURNS</u>       | _____       | <u>✓</u>    | _____            | _____         | _____          |
| <u>EISBART</u>     | <u>✓</u>    | _____       | _____            | _____         | _____          |
| <u>GiaQUINTA</u>   | <u>✓</u>    | _____       | _____            | _____         | _____          |
| <u>HENRY</u>       | <u>✓</u>    | _____       | _____            | _____         | _____          |
| <u>REDD</u>        | <u>✓</u>    | _____       | _____            | _____         | _____          |
| <u>SCHMIDT</u>     | _____       | <u>✓</u>    | _____            | _____         | _____          |
| <u>STIER</u>       | <u>✓</u>    | _____       | _____            | _____         | _____          |
| <u>TALARICO</u>    | <u>✓</u>    | _____       | _____            | _____         | _____          |

DATE: 7-24-84

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)

(SPECIAL) (ZONING MAP) ORDINANCE (RESOLUTION) NO. 5-16-84  
on the 24th day of July, 1984,

ATTEST:

(SEAL)

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Ray A. Ebert  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 25th day of July, 1984, at the hour of 11:30 o'clock A. M., E.S.T.

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 25th day of July, 1984, at the hour of 3:00 o'clock PM M., E.S.T.

Win Moses, Jr.  
WIN MOSES, JR., MAYOR



BILL NO. G-84-07-15

REPORT OF THE COMMITTEE ON PUBLIC RELATIONS

(COMMITTEE OF THE WHOLE)

WE, YOUR COMMITTEE ON PUBLIC RELATIONS TO WHOM WAS REFERRED AN  
(COMMITTEE OF THE WHOLE)  
ORDINANCE \_\_\_\_\_

amending the Municipal Code of the City of Fort Wayne, Indiana,  
by establishing participation goals for Minority and Women-Owned  
Businesses in City procurment and construction contracts and by  
creating a Minority Business Enterprise Council to monitor the extent  
of participation by Minority and Women-Owned Businesses in said  
contracts

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT  
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE DO PASS.

JAMES S. STIER, CHAIRMAN

JANET G. BRADBURY, VICE CHAIRWOMAN

CHARLES B. REDD

THOMAS C. HENRY

BEN A. EISBART

PAUL M. BURNS

MARK E. GiaQUINTA

DONALD J. SCHMIDT

SAMUEL J. TALARICO

*John*  
*Janet G. Bradbury*  
*Charles B. Redd*  
*Thomas C. Henry*  
*Ben A. Eisbart*  
*Paul M. Burns*

*just*  
CONCURRED IN 7-24-84  
SANDRA E. KENNEDY, CITY CLERK



Admn. Appr. \_\_\_\_\_

DIGEST SHEETTITLE OF ORDINANCE General Ordinance

G-84-07-15

DEPARTMENT REQUESTING ORDINANCE Common Council

SYNOPSIS OF ORDINANCE An Ordinance amending the Municipal Code of the  
City of Fort Wayne, Indiana, by establishing participation goals for  
Minority and Women-Owned Businesses in City procurement and construc-  
tion contracts and by creating a Minority Business Enterprise Council  
to monitor the extent of participation by Minority and Women-Owned  
Businesses in said contracts.

EFFECT OF PASSAGE To encourage participation by Minority and Women-Owned  
businesses in City procurement and contruction contracts.

EFFECT OF NON-PASSAGE Opposite of the above.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) \_\_\_\_\_

ASSIGNED TO COMMITTEE (PRESIDENT) \_\_\_\_\_